

Arizona Supreme Court
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IN THE SUPREME COURT
 STATE OF ARIZONA

SUA SPONTE)	Arizona Supreme Court
PETITION TO AMEND ARIZ. R. CIV. P.)	No. _____
11(a), ARIZ. R. CRIM. P. 31.13, 31.18,)	
and 31.19, and ARIZ. R. CIV. APP. P.)	Sua Sponte
13, 22, and 23)	Petition to Amend Ariz. R. Civ. P.
)	11(a), Ariz. R. Crim. P. 31.13,
)	31.18, and 31.19, and Ariz. R. Civ.
)	App. P. 13, 22, and 23
)	and
)	Request for Modified Comment
)	Period
_____)	

The amendments proposed for these rules are prompted by the implementation of electronic filing in the appellate courts of the State of Arizona and are set forth in the attachment hereto. They include the following:

Arizona Rules of Civil Procedure

Rule 11(a)

The proposed amendments to Rule 11(a) limit the requirement of a signature on pleadings, motions, and other papers to those filed in hard copy. They further

provide that the electronic submission of a document under the attorney's or self-represented party's login ID and password, without a signature, constitutes the certification that the attorney or self-represented party has read the filed document, that it is well grounded in fact and law, and that it is not interposed for any improper purpose.

Arizona Rules of Criminal Procedure
and
Arizona Rules of Civil Appellate Procedure
(Parallel Amendments)

Ariz. R. Crim. P. 31.13 and Ariz. R. Civ. App. P. 13(d)

The proposed amendments to criminal Rule 31.13(a) provide that appellate briefs and appendices may be filed electronically, as well as in person or by mail. Proposed amendments to criminal Rule 31.13(c) and civil appellate Rule 13(d)(2) require that, if an appendix is included with an electronically filed appellate brief, and if the appendix contains multiple documents, it must also include a table of contents with electronic bookmarks to the documents contained in the appendix and listed in the table of contents.

Ariz. R. Crim. P. 31.18 and Ariz. R. Civ. App. P. 22

Subsections (b), (c). The proposal requires a request for extension of time for filing a motion for reconsideration to be filed in the appellate court that issued the decision or opinion in question. It also creates a separate paragraph for provisions regarding the response to a motion for reconsideration.

Subsection (d). The proposal requires the form, length and contents of a motion for reconsideration to conform to the provisions of criminal Rule 31.12 or civil appellate Rule 6(c) “not otherwise suspended by any Administrative Order of the Supreme Court.”

Ariz. R. Crim. P. 31.19 and Ariz. R. Civ. App. P. 23

Subsections (a), (j). The proposal requires petitions for review and cross-petitions for review from a decision of the court of appeals to be filed in the supreme court instead of in the court of appeals. It also moves the requirements for motions to extend the time to file from current Rule 31.19(j) and Rule 23(j), which are deleted, and requires that such motion be filed in the supreme court.

Subsection (b). Language requiring mailing is changed to permit electronic transmittal of documents. Additionally, in the event a petition or cross-petition is mooted by the grant of a motion for reconsideration, the petitioner or cross-petitioner is required to notify the parties and the clerk of the supreme court.

Subsection (c). The proposed amendments limit the requirement of filing copies of petitions or cross-petitions for review to petitions filed in hard copy and also set forth binding requirements for hard copies. The proposal requires an appendix included with an electronically filed petition or cross-petition to include a table of contents with bookmarks to the documents contained in the appendix and listed in the table of contents.

Subsections (d), (g). Language in these provisions is changed from “transmittal” of the record to making the record “available,” acknowledging that no actual record will be physically transmitted, but will be available electronically. The amendments in subsection (d) also set forth when the record is to be made available in terms of whether a motion for reconsideration is pending.

Subsection (e). The amendments require the response to a petition for review and any appendix thereto to comply with the requirements of subsections (c) “not otherwise suspended by any Administrative Order of the Supreme Court.”

Subsection (h). The amendment to criminal Rule 31.19(h) provides that if the supreme court denies review, the order shall specify any justices who voted to grant review (this provision already appears in civil appellate Rule 23(h)).

Request for Modified Comment Period

It is requested that the Court adopt a modified comment schedule to allow further revision of the proposal after an initial comment period before the Court considers the proposal for adoption. The requested comment period is as follows:

April 1, 2011	Initial Comments to the petition due
May 9, 2011	Amended petition due, if Petitioner deems necessary
June 6, 2011	Comments to amended petition due
July 1, 2011	Petitioner’s reply to comments due

DATED this 10th day of January, 2010.

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Appendix

(additions are shown by underlining; deletions are shown by ~~strikeouts~~)

ARIZONA RULES OF CIVIL PROCEDURE

* * *

Rule 11. Signing of pleadings

Rule 11(a). Signing of pleadings, motions and other papers; certification; sanctions

1. Requirement of signature. If filed in hard copy, ~~e~~Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. A party who is not represented by an attorney shall sign the party's pleading, motion, or other paper and state the party's address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The rule in equity that the averments of an answer under oath must be overcome by the testimony of two witnesses or of one witness sustained by corroborating circumstances is abolished.

2. Signature or electronic submission under login ID and password as certification. The signature of an attorney or party on a document filed in hard copy, or in the case of a document filed electronically submission under the attorney's or party's login ID and password, constitutes a certificate by the ~~signer~~ attorney or party that the ~~signer~~ attorney or party has read the pleading, motion, or other paper; that to the best of the ~~signer's~~ attorney's or party's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

3. Sanctions. If a pleading, motion or other paper filed in hard copy is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion or other paper is signed or submitted electronically in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the ~~person who signed~~

~~it, a represented~~ attorney or party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, including a reasonable attorney's fee.

ARIZONA RULES OF CRIMINAL PROCEDURE

* * *

Rule 31.13. Appellate briefs

a. Time for Filing; Manner of Filing. In all cases other than capital cases, the appellant's opening brief shall be filed within 40 days after the mailing of the notice as provided by Rule 31.10. The appellee's brief shall be filed within 40 days after service of the appellant's brief. The appellant may file a reply brief within 20 days after service of the appellee's brief, or the appellant may file a notice to the effect that no reply brief will be filed, at which time the appeal will be deemed to be "at issue." Otherwise, the appeal will be deemed to be "at issue" upon the filing of the reply brief or 20 days after service of the appellee's brief, whichever first occurs. The time for filing briefs in capital cases shall be governed by subdivision (f) of this rule. Briefs and appendices may be filed in person, electronically or by mail, which. The term "mail" shall include every type of delivery service except same day hand delivery. Briefs and appendices shall be deemed timely filed if, within the time allowed for filing, they are either (i) received by the Clerk of the Court, or (ii) they are addressed to the Clerk of the Court and picked up by or delivered either to a third party commercial carrier for delivery within three calendar days or to the United States Postal Service. Except in the case of same day hand delivery, filing by third-party commercial carrier or by mail must be accompanied by the party's or attorney's separate signed certification indicating the date of delivery to or pick up by either the carrier or the United States Postal Service.

b. Form and Length. [No change in text.]

c. Contents.

(1)-(3) [No change in text.]

(4) *Appendix.*

(i) The appellate brief for either party may include an appendix of pertinent statutes, treaties, regulations, rules, and instructions, additional relevant items in the record, and extended quotations from cases and authorities where such quotations are required for proper presentation of the issues.

(ii) ~~In addition, the appendix to an appellate brief may include extended quotations from cases and authorities where such quotations are required for proper presentation of the issues. If an appendix is included, it shall be separated from the main body of a brief filed in hard copy by a blank page of distinctive color. It shall be numbered with arabic numerals, and it shall not constitute a part of the brief for the purpose of determining length under Rule 31.13(b). If the brief is filed electronically, and if the appendix contains multiple documents, such documents shall be electronically bookmarked in the appendices' table of contents.~~

d.-f. [No change in text.]

* * *

Rule 31.18. Motions for Reconsideration

a. Necessity. The filing of a motion for reconsideration in the Court of Appeals is not a prerequisite to the filing of a petition for review pursuant to Rule 31.19.

b. Time for Filing; Extension of Time ~~Response~~. Any party desiring reconsideration of a decision of an appellate court may file a motion for reconsideration in the appellate court within fifteen days after the filing of a decision by the appellate court. The motion shall not be amended except by leave of court. A request for extension of time shall be filed in the appellate court that issued the decision or opinion in question.

c. Response. No response to a motion for reconsideration will be filed unless requested by the court, but a motion for reconsideration will not be granted in the absence of such a request.

d. ~~e.~~ Form, Length and Contents. A motion for reconsideration shall be directed solely to discussion of those specific points or matters in which it is claimed the appellate court has erred in determination of facts or law. It ~~shall be bound or fastened and~~ shall comply with the provisions of Rule 31.12 not otherwise suspended by any Administrative Order of the Supreme Court. Except by permission of the court (1) a motion for reconsideration or a response prepared in a proportionately spaced typeface may not exceed 3500 words and may not have an average of more than 280 words per page, including footnotes and quotations; (2) a motion for reconsideration or a response prepared in a monospaced typeface may not exceed 10 pages and may not have an average of more than 350 words per page including footnotes and quotations; and (3) a handwritten motion for reconsideration may not exceed 12 pages. The motion or response shall be accompanied by a certificate of compliance that states either (1) that the motion or

response uses a proportionately spaced typeface of 14 points or more, is double spaced using a roman font and contains [blank] words, or (2) that the motion or response uses a monospaced typeface of no more than 10.5 characters per inch and does not exceed 10 pages, or (3) that the motion for reconsideration was handwritten and does not exceed 12 pages. A party preparing this certificate may rely on the word count of the processing system used to prepare the petition for review.

e. ~~d.~~ Motions Not Permitted. Unless permitted by specific order of the appellate court, no party shall file a motion for reconsideration of (1) an order denying a motion for reconsideration; (2) an order denying a petition for review; or (3) an order declining to accept jurisdiction of a petition for special action.

* * *

Rule 31.19. Petitions for Review

a. Time for Filing; Cross-Petition; Extension of Time. Within 30 days after the Court of Appeals issues its filing of a decision or within 15 days after the clerk has mailed notice of the determination of a motion for reconsideration, any party may file ~~with the clerk of the Court of Appeals~~ a petition for review with the clerk of by the Supreme Court; provided that, if a motion for reconsideration has been filed, a petition for review may be filed within 15 days after the final disposition of the motion. A cross-petition for review may be filed with the clerk of the Supreme Court within 15 days after service of a petition for review. Motions to extend the time to file a petition for review shall be filed in the Supreme Court.

b. Priority of Motion for Reconsideration. In the event of the timely filing of a petition for review prior to the disposition of a motion for reconsideration, further proceedings relating to the petition or cross-petition for review shall be stayed until the clerk of the Court of Appeals has ~~mailed~~ sent notice of the court's ruling on the motion for reconsideration to the parties and to the clerk of the Supreme Court.

If a motion for reconsideration is granted, proceedings relating to the petition or cross-petition for review shall be further stayed until the clerk of the Court of Appeals has ~~mailed~~ sent notice of the court's ruling on any motion for reconsideration of the decision upon reconsideration, or until the time for filing a motion for reconsideration of such decision upon reconsideration has expired.

In the event a petition or cross-petition has become moot by reason of the granting of a motion for reconsideration, the petitioner or cross-petitioner shall give immediate written notice of such mootness to ~~the clerk of the Court of~~

~~Appeals prior to the transmittal of the partial record to the clerk of the Supreme Court as provided in Rule 31.19(d).~~

c. Form, Length and Contents. The petition and cross-petition for review shall comply with the provisions of Rule 31.12 unless such requirements are otherwise suspended by Administrative Order of the Supreme Court. In the case of a petition or cross-petition for review submitted in hard copy, an original and seven copies of the petition or cross-petition and an original and two copies of any separately bound or fastened appendices shall be filed. The documents shall be bound or fastened in the top margin by a two-pronged fastener. No adhesive bindings or bindings using numerous holes shall be used. The parties shall be designated as in the Court of Appeals. Except by permission of the court (1) a petition for review prepared in a proportionately spaced typeface may not exceed 3500 words and may not have an average of more than 280 words per page, including footnotes and quotations; (2) a petition for review prepared in a monospaced typeface may not exceed 10 pages and may not have an average of more than 350 words per page including footnotes and quotations; and (3) a handwritten petition for review may not exceed 12 pages. The petition shall be accompanied by a certificate of compliance that states either (1) that the petition for review uses a proportionately spaced typeface of 14 points or more, is double spaced using a roman font and contains [blank] words, or (2) that the petition for review uses a monospaced typeface of no more than 10.5 characters per inch and does not exceed 10 pages or (3) that the petition for review was handwritten and does not exceed 12 pages. A party preparing this certificate may rely on the word count of the processing system used to prepare the petition for review.

A copy of the Court of Appeals' decision shall ~~be attached to~~ accompany the petition. Where the Court of Appeals' decision is simply an order declining to accept jurisdiction of a special action, a copy of the Superior Court's decision from which the petition for special action was taken shall also ~~be attached to~~ accompany the petition. The petition shall contain concise statements of the following:

1. The issues which were decided by the Court of Appeals and that the petitioner wishes to present to the Supreme Court for review. The petition shall also list, separately and without argument, those additional issues ~~which~~ that were presented to, but not decided by, the Court of Appeals and which may need to be decided if review is granted.

- 2.-3. [No change in text.]

If there are documents in the record on appeal that are necessary for a determination of the issues raised by the petition or cross-petition, the petitioner and cross-petitioner shall file, simultaneously with ~~a copy of~~ the petition and cross-petition, an appendix consisting only of such documents. In the case of a petition for review submitted in hard copy, if the appendices exceed 15 pages in length such appendices shall be bound or fastened together in the top margin by a two-pronged fastener and shall be submitted separately from the petition and the copy of the Appeals Court's decision or the cross-petition. No adhesive bindings or bindings using numerous holes shall be used. If the petition or cross-petition for review is filed electronically, and if the appendices contain multiple documents, such documents shall be electronically bookmarked in the appendices' table of contents.

Any petition for review presented for filing that does not substantially comply with this rule may, in the discretion of the clerk of the ~~appellate court~~ Supreme Court, be returned to the petitioner ~~by the clerk~~ with written instructions to the petitioner to file a proper petition within 30 days from the date on which the written instructions are ~~mailed~~ sent to the petitioner.

d. ~~Transmittal~~ Availability of Partial Record Upon Filing of a Petition for Review.

1. When No Motion for Reconsideration Is Pending. When the clerk of the Court of Appeals is notified that ~~Upon the filing of~~ a petition for review has been filed, if the time for filing a motion for reconsideration has passed and either no such motion has been filed or a motion has been filed and disposed of, the clerk ~~of the Court of Appeals~~ shall ~~transmit~~ make available to the clerk of the Supreme Court ~~the original and all copies of the petition, the original and all copies of the briefs filed in the Court of Appeals, and one copy of the decision of the Court of Appeals.~~

2. When a Motion for Reconsideration Is Pending. If a motion for reconsideration is pending in the Court of Appeals when the clerk is notified that a petition for review has been filed, the clerk shall make the briefs filed in the Court of Appeals available to the clerk of the Supreme Court when the motion for reconsideration has been denied, or if the motion is granted, upon disposition of any motion for reconsideration of the decision upon reconsideration or upon expiration of the time for filing a motion for reconsideration of such decision.

e. Service and Response. The petitioner and cross-petitioner shall serve a copy of the petition and cross-petition and any appendices on all parties who have appeared in the Court of Appeals. Any party wishing to oppose the petition or

cross-petition may file with the clerk of the Supreme Court a response within 30 days from the date upon which the petition or cross-petition for review is served. The response and any appendices shall comply with form, length, and number of copy requirements of ~~Rule 31.19(e)~~ paragraph (c) of this rule not otherwise suspended by any Administrative Order of the Supreme Court. If there are documents in the record on appeal that are necessary for a determination of the issues raised by the petition or cross-petition, the respondent shall file, simultaneously with ~~a copy of the response~~, an appendix that complies with the requirements set forth in paragraph (c) of this rule, consisting only of such documents ~~which~~ that were not included in the appendix filed with the petition or cross-petition. ~~If the appendices exceed 15 pages in length such appendices shall be bound or fastened together separately from the response.~~ Failure to file a response shall not be considered an admission that the petition should be granted.

If a response is filed, the response shall list, separately and without argument, those additional issues, if any, that were presented to, but not decided by, the Court of Appeals, that were not listed by the petitioner, and that may need to be decided if review is granted.

No reply shall be filed by petitioner, unless the Court has so directed by specific order, in which event a reply may be filed within the time set by the Court.

f. Order Granting Review. If the Supreme Court grants review, its order shall specify the issue or issues ~~which are~~ to be reviewed. The Supreme Court may order that the parties file additional briefs or that oral argument be heard, or both. If the order granting review does not provide for supplementation of briefs or for oral argument, either party may, within 15 days after the clerk ~~mails~~ sends notice of the Court's order, request the Court to do so by motion, specifying reasons for supplementation or for oral argument, or both.

g. Transmittal Availability of Remaining Record. Upon notification by the clerk of the Supreme Court that a petition or cross-petition for review has been granted, the clerk of the Court of Appeals shall ~~transmit~~ make the remaining record on appeal available to the clerk of the Supreme Court.

h. Denial of Petition. If the Supreme Court denies review, its order shall specify those justices of the Supreme Court, if any, who voted to grant review. When all petitions and cross-petitions for review have been denied, the clerk of the Supreme Court shall so notify the clerk of the Court of Appeals and the parties, and return the briefs and the petition or cross-petition for review to the clerk of the Court of Appeals.

i. Dispositions.

1.-3. [No change in text.]

~~**j. Motions to Extend Time.** The court of appeals shall have authority to grant or deny motions to extend time to file motions for reconsideration of its decisions or opinions or to extend the time to file a petition for review. These motions shall be filed in the court of appeals.~~

j. k. Amicus Curiae. The Supreme Court may permit participation by amicus curiae as ~~provided for in~~ pursuant to the provisions of Rule 31.25 of these rules not otherwise suspended by any Administrative Order of the Supreme Court.

ARIZONA RULES OF CIVIL APPELLATE PROCEDURE

* * *

Rule 13. Briefs

(a)-(c) [No change in text.]

(d) Reproduction of Constitutional Provisions, Statutes, Rules, Regulations and Instructions: the Appendix.

1. If determination of the issues presented requires the study of constitutional provisions, rules, statutes, regulations or instructions given or refused, the relevant parts of any of the foregoing shall be reproduced in the brief or in an appendix to the brief. An appendix may include additional items of the record, as provided in Rule 11(a)(3). An appendix may include extended quotations from cases and authorities where such quotations are required for proper presentation of the issues.

2. If an appendix is included, it shall be separated from the main body of ~~the a~~ brief filed in hard copy by a blank page of distinctive color. It shall be numbered with arabic numerals, and it shall not constitute a part of the brief for the purpose of determining length under Rule 14(b). If the brief is filed electronically, and if the appendix contains multiple documents, such documents shall be electronically bookmarked in the appendices' table of contents.

(e)-(f) [No change in text.]

* * *

Rule 22. Motions for Reconsideration

(a) **Necessity.** The filing of a motion for reconsideration in the Court of Appeals is not a prerequisite to the filing of a petition for review pursuant to Rule 23.

(b) **Time for Filing; Extension of Time—Response.** Any party desiring reconsideration of a decision of an appellate court may file a motion for reconsideration in the appellate court within fifteen days after the filing of a decision by the appellate court. The motion shall not be amended except by leave

of court. A request for extension of time shall be filed in the appellate court that issued the decision or opinion in question.

(c) Response. No response to a motion for reconsideration will be filed unless requested by the Court, but a motion for reconsideration will not be granted in the absence of such a request.

(d) ~~(e)~~ Form, Length and Contents. A motion for reconsideration shall be directed solely to discussion of those specific points or matters in which it is claimed the appellate court erred in determination of facts or law. It ~~shall be bound or fastened and~~ shall comply with the provisions of Rule 6(c) not otherwise suspended by any Administrative Order of the Supreme Court. Except by permission of the court (1) a motion for reconsideration or a response prepared in a proportionately spaced typeface may not exceed 3500 words and may not have an average of more than 280 words per page, including footnotes and quotations; (2) a motion for reconsideration or a response prepared in a monospaced typeface may not exceed 10 pages and may not have an average of more than 350 words per page including footnotes and quotations; and (3) a handwritten motion for reconsideration may not exceed 12 pages. The motion or response shall be accompanied by a certificate of compliance that states either (1) that the motion or response uses a proportionately spaced typeface of 14 points or more, is double spaced using a roman font and contains [blank] words, or (2) that the motion or response uses a monospaced typeface of no more than 10.5 characters per inch and does not exceed 10 pages, or (3) that the motion for reconsideration was handwritten and does not exceed 12 pages. A party preparing this certificate may rely on the word count of the processing system used to prepare the petition for review.

(e) ~~(d)~~ Motions Not Permitted. Unless permitted by specific order of the appellate court, no party shall file a motion for reconsideration of (1) an order denying a motion for reconsideration; (2) an order denying a petition for review; or (3) an order declining to accept jurisdiction of a petition for special action.

* * *

Rule 23. Petition for Review

(a) Time for Filing; Cross-Petition; Extension of Time. Within 30 days after the Court of Appeals issues its filing of a decision or within 15 days after the clerk has mailed notice of the determination of a motion for reconsideration, any party may file with the clerk of the Court of Appeals a petition for review with the clerk of by the Supreme Court; provided that, if a motion for reconsideration has

been filed, a petition for review may be filed within 15 days after the final disposition of the motion. A cross-petition for review may be filed with the clerk of the Supreme Court within 15 days after service of a petition for review. Motions to extend the time to file a petition for review shall be filed in the Supreme Court.

(b) Priority of Motion for Reconsideration. In the event of the timely filing of a petition for review prior to the disposition of a motion for reconsideration, further proceedings relating to the petition or cross-petition for review shall be stayed until the clerk of the Court of Appeals has ~~mailed~~ sent notice of the court's ruling on the motion for reconsideration to the parties and to the clerk of the Supreme Court.

If a motion for reconsideration is granted, proceedings relating to the petition or cross-petition for review shall be further stayed until the clerk of the Court of Appeals has ~~mailed~~ sent notice of the court's ruling on any motion for reconsideration of the decision upon reconsideration, or until the time for filing a motion for reconsideration of such decision upon reconsideration has expired.

In the event a petition or cross-petition has become moot by reason of the granting of a motion for reconsideration, the petitioner or cross-petitioner shall give immediate written notice of such mootness to ~~the clerk of the Court of Appeals prior to the transmittal of the partial record to the clerk of the Supreme Court, as provided in Rule 23(d).~~

(c) Form, Length and Contents. The petition and cross-petition for review shall ~~be bound or fastened and shall~~ comply with the provisions of Rule 6(c) unless such requirements are otherwise suspended and the parties shall be designated as in the Court of Appeals. Except by permission of the court (1) a petition for review prepared in a proportionately spaced typeface may not exceed 3500 words and may not have an average of more than 280 words per page, including footnotes and quotations; (2) a petition for review prepared in a monospaced typeface may not exceed 10 pages and may not have an average of more than 350 words per page including footnotes and quotations; and (3) a handwritten petition for review may not exceed 12 pages. The petition shall be accompanied by a certificate of compliance that states either (1) that the petition for review uses a proportionately spaced typeface of 14 points or more, is double spaced using a roman font and contains [blank] words, or (2) that the petition for review uses a monospaced typeface of no more than 10.5 characters per inch and does not exceed 10 pages, or (3) that the petition for review was handwritten and does not exceed 12 pages. A party preparing this certificate may rely on the word count of the processing system used to prepare the petition for review.

A copy of the Court of Appeals' decision shall ~~be attached to~~ accompany the petition. Where the Court of Appeals' decision is simply an order declining to accept jurisdiction of a special action, a copy of the Superior Court's decision from which the petition for special action was taken shall also ~~be attached to~~ accompany the petition. The petition and cross-petition shall contain concise statements of the following:

1.-3. [No change in text.]

If there are documents in the record on appeal that are necessary for a determination of the issues raised by the petition or cross-petition, the petitioner and cross-petitioner shall file, simultaneously with ~~a copy of~~ the petition and cross-petition, an appendix consisting only of such documents. In the case of a petition or cross-petition for review submitted in hard copy, if the appendices exceed 15 pages in length, such appendices shall be bound or fastened together in the top margin by a two-pronged fastener and shall be submitted separately from the petition and the copy of the Appeals Court's decision or the cross-petition. No adhesive bindings or bindings using numerous holes shall be used. An original and two copies of any separately bound or fastened appendices shall be filed with the petition or cross-petition. If the petition or cross-petition for review is filed electronically, and if the appendices contain multiple documents, such documents shall be electronically bookmarked in the appendices' table of contents.

Any petition for review presented for filing that does not substantially comply with this rule may, in the discretion of the clerk of the ~~appellate court~~ Supreme Court, be returned to the petitioner by the clerk with written instructions to the petitioner to file a proper petition within 30 days from the date on which the written instructions are ~~mailed~~ sent to the petitioner.

(d) ~~Transmittal~~ Availability of Partial Record Upon Filing of a Petition for Review.

1. When No Motion for Reconsideration Is Pending. When the clerk of the Court of Appeals is notified that ~~Upon the filing of~~ a petition for review has been filed, if the time for filing a motion for reconsideration has passed and either no such motion has been filed or a motion has been filed and disposed of, the clerk of the Court of Appeals shall ~~transmit~~ make available to the clerk of the Supreme Court ~~the original and all copies of the petition, the original and all copies of the briefs filed in the Court of Appeals, and one copy of the decision of the Court of Appeals.~~

2. When a Motion for Reconsideration Is Pending. If a motion for reconsideration is pending in the Court of Appeals when the clerk is

notified that a petition for review has been filed, the clerk shall make the briefs filed in the Court of Appeals available to the clerk of the Supreme Court when the motion for reconsideration has been denied, or if the motion is granted, upon disposition of any motion for reconsideration of the decision upon reconsideration or upon expiration of the time for filing a motion for reconsideration of such decision.

(e) Service and Response. The petitioner or cross-petitioner shall serve a copy of the petition or cross-petition and any appendices on all parties who have appeared in the Court of Appeals. Any party wishing to oppose the petition or cross-petition may file with the clerk of the Supreme Court a response within 30 days from the date upon which the petition or cross-petition for review is served. The response shall comply with the provisions of Rules 6(c) and 23(c) not otherwise suspended by any Administrative Order of the Supreme Court. If there are documents in the record on appeal that are necessary for a determination of the issues raised by the petition or cross-petition, the respondent shall file, simultaneously with a copy of the response, an appendix that complies with the requirements set forth in paragraph (c) of this rule, consisting only of such documents which were not included in the appendix filed with the petition or cross-petition. Failure to file a response shall not be considered an admission that the petition should be granted. ~~If the appendices exceed 15 pages in length such appendices shall be bound or fastened together separately from the response. An original and two copies of any separately bound or fastened appendices shall be filed with the response.~~

If a response is filed, the response shall list, separately and without argument, those additional issues, if any, ~~which that~~ were presented to, but not decided by, the Court of Appeals, ~~which that~~ were not listed by the petitioner, and ~~which that~~ may need to be decided if review is granted.

No reply shall be filed by petitioner, unless the Court has so directed by specific order, in which event a reply may be filed within the time set by the Court.

(f) Order Granting Review. If the Supreme Court grants review, its order shall specify the issue or issues ~~which are~~ to be reviewed. The Supreme Court may order that the parties file additional briefs or that oral argument be heard, or both. If the order granting review does not provide for supplementation of briefs or for oral argument, either party may, within 15 days after the clerk ~~mails~~ sends notice of the Court's order, request the Court to do so by a motion specifying the reasons for supplementation or for oral argument, or both.

(g) Transmittal Availability of Remaining Record. Upon notification by the clerk of the Supreme Court that a petition or cross-petition for review has been

granted, the clerk of the Court of Appeals shall ~~transmit~~ make the remaining record available to the clerk of the Supreme Court.

(h) Order Denying Review. If the Supreme Court denies~~d~~ review, its order shall specify those justices of the Supreme Court, if any, who voted to grant review. When all petitions and cross-petitions for review have been denied, the clerk of the Supreme Court shall so notify the clerk of the Court of Appeals and the parties, and shall return the original copies of the briefs and the petition or cross-petition for review to the clerk of the Court of Appeals.

(i) Dispositions.

(1) If an appeal is resolved by agreement of the parties after a petition for review by the Supreme Court is filed, the Supreme Court may order that the decision of the Court of Appeals be vacated, or that any opinion of the Court of Appeals be redesignated as a Memorandum Decision.

(2) When review has been granted, the Supreme Court may remand the appeal to the Court of Appeals for reconsideration in light of authority identified in the Supreme Court's order.

(3) If issues were raised in, but not decided by, the Court of Appeals and review has been granted, the Supreme Court may consider and decide such issues, may remand the appeal to the Court of Appeals for decision of such issues, or may make such other disposition with respect to such issues as it deems appropriate.

~~**(j) Motions to Extend Time.** The court of appeals shall have authority to grant or deny motions to extend time to file motions for reconsideration of its decisions or opinions or to extend the time to file a petition for review. These motions shall be filed in the court of appeals.~~

(j) (k) Amicus Curiae. The Supreme Court may permit participation by amicus curiae ~~as provided for in~~ pursuant to the provisions of Rule 16 of these rules not otherwise suspended by any Administrative Order of the Supreme Court.